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January 29, 2008

Charles Hite, Esq.
Deputy Chief Disciplinary Counsel
1132 Bishop Street
Suite 300
Honolulu, Hawaii 96813

Re: Complaint By Tim Hogan

Dear Mr. Hite:

Thank you for the opportunity to respond to the disciplinary complaint by Mr. Tim Hogan.

1. Lawsuit

Enclosed herewith is a copy of the Second Amended Complaint that Mr. Hogan recently filed in New York. His allegations in his letter to you appear to parallel Claims VI through X of his lawsuit.

Also enclosed is the affidavit which I filed last week in the New York case. Paragraphs 0 and 21 deal with the allegations. Also enclosed is Exhibit L to the affidavit – a copy of Judge Mollway's award of \$84,000 in attorneys' fees to my client, C&S Wholesale Grocers.

2. Dealings With Lynch Ichida Thompson Kim & Hirota (LITKH)

In the Summer of 2007, after Mr. Hogan informed U.S. District Judge Susan Mollway that he was leaving his law firm, Lynch Ichida Thompson Kim & Hirota ("LITKH"), I had a telephone conversation with Wesley Ichida. I asked Mr. Ichida, in words or substance, "is that attorney lien for sale?" Mr. Ichida responded, in words or substance, that "we thought of that too." No further discussion of that issue has occurred. No one representing C&S has made any

Exhibit D

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offer or proposal to Mr. Ichida or his firm or entered into any understanding or agreement with Mr. Ichida or anyone associated with his firm relating in any way to any lien that Mr. Ichida or his firm may or may not have. I have no knowledge of any specifics of the relationship between Plaintiff and any of his current or former counsel.

It seems as though Mr. Hogan's conjecture is based exclusively on the fact that Mr. Ichida declined to enter into a dialogue with him. This hardly seems an appropriate basis for a Disciplinary Counsel complaint.

3. Mr. Berry's Divorce

As far as Mr. Berry's divorce is concerned, I received a telephone call once from someone (I do not remember whether it was a deputy sheriff or possibly someone from Mrs. Berry's divorce lawyer's office) who wanted to know how to serve Mr. Berry in connection with that divorce. I told the caller the date and time that a settlement conference was scheduled at court. To the best of my knowledge, no one attempted or effected any service at that conference.

Many months (or possibly more than a year) later, I took a judgment debtor examination of Mr. Berry on August 13, 2007. Shortly after the judgment debtor examination, I received a telephone call from counsel for Mr. Berry's wife informing me that Mr. Berry had been successfully served at a restaurant in Florida with some sort of process in his divorce action. I had the impression that this information was being passed on to me, so that I could use the same Florida process server. However, I had already taken the judgment debtor examination at that time and I had no need to serve process on Mr. Berry. Neither I nor C&S had any advance knowledge of the service in Florida and no role whatsoever in it.

I have no knowledge of any of the things alleged in Mr. Hogan's letter regarding Mike Baughman traveling to Florida to identify Mr. Berry to a process server. I very much doubt that it occurred.

I stand ready to respond to any questions you may have.

Very truly yours,



LEX R. SMITH

for

KOBAYASHI, SUGITA & GODA

Encls.